IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

CHAMBER SUMMONS NO. 1298 OF 2002

IN

SUIT NO. 1603 OF 1985

SHRI RAJESH KANTILAL SHAH & Anr. ..Plaintiffs

Versus

SHRI KISHORE K. BADIANI & Ors. ..Defendants

Mr. R.D.Soni i/b. Jayesh Desai & Associates for Plaintiffs.

Ms. Alpana Ghone i/b. Sonal Doshi & Co. for defendant No.1.

Mr. S.S.Shamim for Defendants 2(b) to 2(d) in support of Chamber Summons.

CORAM: S.K.SHAH,J.

DATE : 29th June,2006.

P.C.

1. Heard Counsel on both sides.

2. By this Chamber Summons, the learned Counsel for

Defendants Nos. 2(b) to 2(d) seeks deletion of paras No.14(u) and 14(r) in the Written Statement filed by the Defendant No.1. So far as para 14(u) is concerned, it is only a reproduction of a public notice issued by the Plaintiffs and the original defendant No.2 in the issue of the Bombay Samachar. What was mentioned in the public notice was with regard to the Deed of Release executed by Dr. Shah.

3. It is vehemently submitted by the learned Counsel for defendant No.2(b) to 2(d) that the latter portion of para 14(u) is concerning Mrs. Kalpana being living with a married man i.e. defendant No.2(a) and had a child from him and she was expecting another child. He states that this is not relevant. However, the learned Counsel for Defendant No.1 states that this is only reproduction and nothing else and also may be relevant at the time of trial. What was published in the newspaper and some part thereof is relevant. It cannot be directed to be struck off.

4. So far as para 14(r) of the Written Statement is concerned, it is only a matter of fact and the learned Counsel for the Defendant No.1 does not oppose it.

The Chamber Summons is, therefore, dismissed.

5. The learned Counsel for defendant No.2(b) to 2(d) requests for staying this order for a period of three weeks. The learned Counsel for the defendant No.1 opposes the stay.

6. I do not find that this is a fit case where such stay should be granted. The stay is, therefore, rejected.

(S.K.SHAH,J.)